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IRS Affordable Care Act_Information Reporting by Applicable Large Employers on Employer-Sponsored Health Coverage IRC 6056

GEOFF CAMPBELL: Hello. My name is Geoff Campbell, and I want to thank you for choosing this session about the Affordable Care Act. Today I am here to discuss information reporting by applicable large employers on employer-sponsored health coverage. Before I get started, let me tell you a little bit about myself. Like I said, my name is Geoff Campbell. I currently work as a tax law specialist in the Exempt Organizations Division of TEGE in Washington, DC.

Also here with me today is Ann Makres. Ann?

ANN MAKRES: Hi. Thank you, Geoff. I'm a Senior Stakeholder Liaison in the Small Business Self Employed Division of the Internal Revenue Service, and I'm out of Bloomington, Minnesota.

GEOFF CAMPBELL: Excellent. Thank you, Ann. Before we begin today's presentations, we have a few announcements. The information contained in this presentation is current as of March 11, 2015, and also for the latest information about tax provisions of the Affordable Care Act, visit irs.gov/aca.

Today we will cover the details of information reporting for employers, which is found in Section 6056 of the Internal Revenue Code. Our topics will include an overview of which employers are subject to the reporting requirements, what the reporting requirements are, and rules for government entity designation, Third Party and Multi-Employer Plans. We also have an introduction to the Forms 1094C, which is the Transmittal of Employer-Provided Health Insurance Offer and Coverage Information Returns, and the 1095C, which is the Employer-Provided Health Insurance Offer and Coverage, as well as the applicable instructions. In general, these are the forms employers must file with the IRS and furnish to full time employees to satisfy the reporting requirements. It is important to understand the reporting requirements so that over the course of the year you can make sure you are collecting the information you will need to complete the returns. The final forms and instructions were released in early February and can be found on irs.gov.

Final regulations for information reporting by applicable employers were issued as Treasury Decision 9661 on March 10, 2014. Additional helpful information can be found in the Preamble to the final regulations.

Generally the information reporting requirements for employers apply only to employers that are Applicable Large Employers, or ALEs, under the employer-shared responsibility provisions. Those employers are required to file an information return that reports health care coverage offered to the employer's full time employees for the calendar year.

Under the employer-shared responsibility provisions, an ALE is an employer that had at least 50 full time employees, including full time equivalent employees, in the prior

calendar year. For example, employers use employment information from calendar year 2014 to determine whether they are an ALE for 2015. When making this determination, employees having an average of at least 30 hours of service per week are considered full time employees.

It is important to understand how an employer determines whether it is an ALE, especially in the case of employers with common ownership. All employers, including government entities with a common owner or that are otherwise related, are combined and treated as a single employer for the purpose of determining whether the combined, or what we refer to as the aggregated group, is an ALE. If the group had at least 50 full time employees, including full time equivalents, in the preceding calendar year, the aggregated group is an ALE and each member of the group is an ALE member.

Let's look at an example. Assume that entities A, B and C are a controlled group of employers. In the prior calendar year, A had no employees. B had 40 full time employees. And C had 60 full time employees. If you determined the ALE status for each member of the group separately, only C would be an ALE because it had 60 full time employees in the prior calendar year. However, when you aggregate the three entities, A, B and C together have a combined total of 100 full time employees. Therefore, A, B and C are an ALE, and each entity, A, B and C, is an ALE member even though A did not have any employees and B had fewer than 50 full time employees.

Although ALE status is determined by combining entities with common ownership, liability for an assessable payment under the employer-shared responsibility provision, and the required information reporting, applies to each ALE member independently. In this scenario, since A did not have any employees, it is not required to report and will not be liable for the employer-shared responsibility payment. Each entity with full time employees, that is B and C, is required to file its own information returns. There is no option for ALE members in an aggregated group to file one information return for the entire group. Thus, in our example, B cannot file returns reporting for B and C together.

Generally, an Employer Information Return is required to be filed with the IRS for, and furnished to, each full time employee of the ALE member. These information returns are used by the IRS to administer the employer-shared responsibility provisions and to assist in determining an employee's eligibility for the premium tax credit. If an employee is offered affordable minimum value self-only coverage, then the employee is not eligible for the premium tax credit. Employers will be required to file Information Returns for calendar year 2015. Let's take a look at some details of the forms and the due dates for filing and furnishing.

The Employer Information Reporting provisions require the employer to file two forms. Form 1094C is a transmittal form, and Form 1095C is the employee statement. The method of filing is similar to how you file the 1096 and 1099.

First, Form 1094C is the "Transmittal of Employer-Provided Health Insurance Offer and Coverage Information Returns." All Applicable Large Employers must file this transmittal form, which includes basic information such as employer name, EIN, address, point of contact, and the number of Form 1095Cs submitted with the transmittal. A Form 1094C must be filed with any Form 1095C that an employer files. An employer can choose to file multiple Form - excuse me. A Form 1094C must be filed with any Form 1095C that an employer files. My apology. An employer can choose to file multiple Forms 1094C, each accompanied by Forms 1095C for some of its employees, provided that, in combination, Forms 1095C are filed for each employee for whom the employer is required to file. However, each ALE member must file one authoritative transmittal reporting aggregate employer-level data for all full time employees of the employer and identify the 1094C as the Authoritative Transmittal.

Form 1095C is the "Employer-Provided Health Insurance Offer and Coverage." There must be only one Form 1095C filed with the IRS for each full time employee of an employer. A copy must be furnished to full time employees to assist them in filing their tax return. On the Form 1095C, employers report information about the offer of coverage the employee received, if any, and indicate whether the employer is eligible for any safe harbors or other relief available under the employer shared responsibility provisions. Forms 1094C and 1095C are subject to the requirements to file returns electronically. Therefore, any employer filing 250 or more information returns must file electronically. This 250 or more requirement applies separately to each type of return, so an employer is required to file electronically if it is filing 250 forms 1095C. The due date for filing the 1094C and 1095C with the IRS depends on whether the form is filed electronically or on paper. Paper returns must be filed with the IRS no later than February 28th, and electronic returns must be filed by March 31st of the year immediately following the calendar year to which the return relates. Form 1095C must also be furnished to the employee no later than January 31st. This requirement is met if the Form 1095C is properly addressed and mailed by January 31st. If January 31st falls on a Saturday, Sunday or legal holiday, the form must be furnished by the next business day, which is any day that is not a Saturday, Sunday or legal holiday. Later we will discuss an alternative method to furnishing statements that is available to employers that make qualifying offers.

This slide shows the general reporting method for information reporting. Using this method, an employer reports the coverage that it offered, or that it did not offer coverage, to each full time employee on a monthly basis using each calendar month,

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not the payroll period. If the coverage offered provided minimum value, the employer also reports the lowest cost monthly premium for self-only coverage.

Let's take a minute to address the definition of minimum value. Under IRC Section 36B, the premium tax credit, a plan fails to provide minimum value if the plan's share of the total allowed costs and benefits provided under the plan is less than 60% of such costs. See Notice 2014-69 for additional guidance whether an employer-sponsored plan provided minimum value coverage if the plan fails to substantially cover inpatient hospitalization services or physician services. If the coverage offered by the employer fails to provide minimum value under these standards, then the employee may be eligible for the premium tax credit. An Applicable Large Employer may be liable for the shared responsibility payment with respect to a full time employee who is not offered minimum value coverage and receives a premium tax credit.

In addition to the General Reporting Method, there are two alternative reporting methods. The Qualifying Offer Method and the 98% Offer Method are available for employers that meet certain criteria. Even if an employer meets the criteria, they are not required to report using these methods and can decide to use the General Method. These methods simplify reporting. Let's take a look at each of these methods in more detail.

To be eligible to use the Qualifying Offer Method, the employer must certify that it made a qualifying offer to one or more of its full time employees for all months during the year in which the employee was a full time employee for which a Section 4980H Employer Shared Responsibility payment could apply.

A qualifying offer is an offer of minimum essential coverage providing minimum value at an employee cost for employee-only coverage not exceeding 9.5% of the federal poverty level and includes an offer of at least minimum essential coverage to the employee's spouse and dependents if any. The ALE certifies on the Form 1094C that it met the criteria and will be reporting using that Qualifying Offer Method.

If an employer can certify a qualifying offer was made to one or more employees, then for those employees who received a qualifying offer for all 12 calendar months, the employer completes its returns using a Simplified Reporting Process.

The employer files a Form 1094C and Form 1095C with the IRS in accordance with the applicable instructions. Generally on the Form 1095C, the employer will complete information to identify the employee and employer, and then use '1' code to report the qualified offer. Additionally, instead of furnishing the employee a copy of the Form 1095C, the employer may furnish a simplified statement to the individual that includes the employer's name and address, EIN, contact name and telephone number, and a

statement indicating that for all 12 months of the calendar year the employee and his or her spouse and dependents are not eligible for the premium tax credit. In addition, the employee must be directed to see IRS Publication 974, Premium Tax Credit. The instructions to the Forms 1094C and 1095C describe exactly what must be included in the statement. For those employees that do not receive a qualifying offer for all 12 calendar months, the employer must furnish a copy of the Form 1095C filed with the IRS.

If an employer certifies that it meets the requirement for Qualifying Offer Method Transition relief, which is available for the 2015 plan year only, employers may furnish all employees a statement similar to the one we discussed above under the Qualified Offer Method and will not be required to provide any employee with a copy of the Form 1095C filed with the IRS.

An employer meets these requirements if it certifies that it first made qualifying offers to at least 95% of its full time employees, and secondly, files Forms 1094C and 1095C using the codes indicating that the employer is using the Qualified Offer Transition Release. The instructions to the Forms 1094C and 1095C include specific instructions on how to complete the Form 1095C.

The second alternate reporting method available to employers is the 98% Offer Method. This method permits employers not to have to determine or report on Form 1094C the number of full time employees for each calendar month. However, employers using this method must still file returns with the IRS and furnish a Form 1095C to each full time employee. Like the Qualified Offer Method, the employer must certify on the Form 1094C Transmittal Form that it offered minimum essential coverage providing minimum value that is affordable to at least 98% of the employees whom it reports on a Section 6056 return. For this purpose, affordability is determined using one of the affordability safe harbors available to employers under the employer-shared responsibility provisions.

While this alternative method allows reporting without identifying or specifying the number of full time employees, it does not exempt the employer from any penalties that might apply for failure to report with respect to any full time employee.

There are some important details to know about transition relief for information reporting by employers. For tax year 2015, certain employers with 50 to 99 full time employees, including full time equivalent employees, will not be liable for the employer-shared responsibility payment. However, these employers are still required to satisfy Section 6056 reporting requirements by filing information returns with the IRS and furnishing a

copy to the individual. The employer will be able to certify they meet the eligibility requirements for transition relief on their Authoritative Form 1094C Transmittal.

This slide is about a special rule that allows a governmental unit to designate one or more related government entities to file information returns on its behalf for some or all of its full time employees. This is a statutory rule, and only government entities are allowed to make a designation. Other employers are not.

A governmental entity is the government of the United States, any state or political subdivision thereof, or any Indian tribal government. However, the designated entity must be part of or related to the same governmental unit as the ALE member. For example, the designated government entity might be the governmental unit that runs the relevant health plan or that does other information reporting for the designating governmental unit.

The designation must be in writing and signed by both the ALE member and the designated entity. The regulations specify what must be included in the written designation. Generally that includes first, identifying information for the ALE member and the designated entity. Second, the category of full time employees for whom the designated entity will do the reporting. And third, language that the designated entity agrees and acknowledges that it is the entity responsible for reporting and the information reporting penalties under Sections 6721 and 6722. This designation is not filed with the IRS, but both parties should keep a copy in accordance with normal record retention rules.

When a governmental unit is designated to report for more than one other government entity, the designee must file a separate 6056 return for each ALE member for which the designated entity is reporting. For example, if a health plan has been designated to report for 20 different ALE members, it must file a separate return for each ALE member and cannot file one return reporting for all 20 ALE members. In addition, even with a designation, there must be a single Authoritative Transmittal submitted, either by or on behalf of the ALE member to report employer-level data for all of its full time employees. The designated entity will be liable for reporting requirements, but the ALE member remains subject to the 4980H provisions.

Let's talk briefly about third parties and multi-employer plans. Third parties and multi-employer plans are permitted to facilitate filing and furnishing returns for ALE members. However, even though they may facilitate filing, the ALE member remains liable for any potential filing penalties and cannot transfer that liability to a third party. In addition, the ALE member remains liable for the employer-shared responsibility provisions.

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With that, I'd like to hand it over to Ann who is going to discuss some more of the specifics with respect to information reporting. Ann?

ANN MAKRES: Thank you, Geoff. Now we're going to look at what information is reported. As we mentioned earlier, to meet its filing requirements, an employer must file the 1094C and the 1095C with the IRS and furnish a copy of the 1095C to the employee. In general, each form requires reporting identifying information shown on the slide for the employer and the employee, as well as certain other information, which we will discuss in more detail as we talk about the specifics of each form.

This slide shows Part I of Form 1094C. This form has four parts, and whether the filer completes one or more parts depends upon whether the form being filed is the Authoritative Transmittal. And if it is the Authoritative Transmittal, the employer's specific circumstances determine what portions for Parts II, III and IV must be completed.

The Form 1094C has two purposes: first, it's a transmittal document used to transmit the Forms 1095C to the IRS. For example, if an employer has two divisions, they may file its 1095Cs separately for each division. In that case, a 1094C must be filed with each batch of Form 1095Cs.

Second, Part I provides identifying information about the applicable large employer member. Starting with Line 1, we see the employer name, employer identification number, the address, and the point of contact. And on Line 18, the total number of Forms 1095C submitted with this transmittal. Now let's start by taking a look at an example of how this part is completed.

This example shows the identifying information completed on the 1094C. I want you to note that Lines 7 and 8 require entering the name and number of a person to contact. This is so the IRS can contact the ALE member if necessary. If the employer does not have an Employer Identification Number, it must get one to file the form. The form instructions include information on how an entity applies for an Employer Identification Number.

If corporation ABC was a government entity that had designated another entity to file returns on its behalf, information about the designee would be entered on Lines 9 through 18. Now Line 18 on this slide reports that 80 Form 1095Cs are being submitted with this transmittal. The next slide shows Part II of the form.

As you recall, each ALE member must file one authoritative transmittal to report aggregate employer-level data for the employer. The employer indicates that the Form 1094C it is filing is its Authoritative Transmittal by checking the box on Line 19. If this is

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not the Authoritative Transmittal, the employer does not need to complete the remainder of the form.

Also, if the employer is filing a paper return, it should sign that return. When an employer is filing the Authoritative Transmittal, it's very important for the employer to refer to the Form 1094C instructions. There they will find assistance in properly completing the remainder of the form.

Now, continuing with our example, line 20 indicates the total number of Forms 1095C filed by Corporation ABC, and that number is 80. If ABC files more than one Form 1094C, as we discussed earlier, in the case of an employer filing separately for its two divisions, then on Line 20, ABC would enter the total number of Forms 1095C that will be filed by both divisions. On Line 21, the employer will check "Yes" if it was a member of an aggregated group for any month in the calendar year. On the example in the slide, Corporation ABC is not a member of an aggregated group, so on Line 21 it checks "No." Line 21 also includes an instruction telling the filer that if it checks "No" on Line 21, it is not required to complete Part IV of the form. Line 22 is where the employer certifies that it meets the criteria for any of the transition rules that were discussed earlier. In this example, Corporation ABC met the requirement for the Qualifying Offer Method, so it checks Box A on Line 22. Also, on Line 22, Corporation ABC checks Box C to report that it is eligible for Section 4980H transition relief for ALEs with fewer than 100 full time employees.

Now this slide shows Part III of the 1094C, which is where an employer filing its Authoritative Statement reports employer-level information. Column A is the minimum essential coverage offer indicator. The employer uses this line to report whether it offered minimum essential coverage to at least 95% of its full time employees and their dependents. If the employer offered minimum essential coverage for the entire calendar year, it should enter "X" in the "Yes" box on Line 23 for all 12 months. If the employer offered minimum essential coverage to at least 95% of its full time employees and their dependents only for certain calendar months, it should enter "X" in the "Yes" checkbox for each applicable month.

For the months that the employer did not offer minimum essential coverage to at least 95% of its full time employees and their dependents, it should enter "X" in the "No" checkbox for each applicable month or enter "X" in the "All 12 Months" box if it didn't offer the required coverage for any month in the calendar year. For 2015, there is a transition relief reducing that 95% requirement down to 70%.

In Column B, the employer enters the number of full time employees it had for each month. The employer is required to make an entry in each monthly box in this column.

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To complete this column accurately, the employer reports the number of employees that the employer determined were "full time employees" in each month, and that's in accordance with measurement methods the employer used to determine full time employee status under the employer-shared responsibility provisions. If the employer reported on Line 22 that it met the criteria to use the 98% Offer Method, then the employer would not complete Column B.

In Column C, the employer reports the total number of employees, including full time employees and non-full time employees, that it employed in each calendar month. The instructions provide optional dates during the month that the employer can use to determine the total number of employees, but it must use the same day for every month. The employer completes Column D to report whether it was a member of an aggregated ALE member group during each month of the calendar year. And finally, the employer would enter a Section 4980H transition relief indicator code if they selected Box C on Line 22.

Here we continue our example for Corporation ABC. Since Corporation ABC had 80 for all 12 months of the year and did offer minimum essential coverage to all employees, we've marked "Yes" in Column A, the full time employee count of 80 for each month in Column B, and the total employee count for the year in Column C. Since Corporation ABC checked "No" on Line 21 indicating that it was not an aggregated group member, Column D does not have to be completed. However, ABC would need to complete Column E because it certified on Line 22 that it was eligible for Section 4980H transition relief. Now pursuant to the instructions, Corporation ABC would enter "A" in Column E for the months in which it was eligible for transition relief available for employers with between 50 and 99 full time employees. Now keep in mind, this is a simple example, and actual situations may be much more complex. For example, if the employer is a member of an aggregated group, it would complete Part III, Column (d), or the count of full time employees in Column B could fluctuate from month to month.

Part IV of the Transmittal is completed if the employer is a member of an aggregated ALE member group. Remember now, this is indicated by checking "Yes" on Line 21. And as you remember, Corporation ABC checked "No" on Line 21 and is not required to complete Part IV. The information reported in Part IV is the names and Employer Identification Numbers of the other ALE members of the aggregated ALE member group. If there are more than 30 members, information is required on only 30 other members. The instructions include details on determining which 30 members to report in Part IV.

Now let's take a look at Form 1095C, "Employer Provided Health Insurance Offer and Coverage", which the employer uses to report information about coverage offered to

each full time employee. This is the form that the employer is required to furnish to the employee unless the employer is eligible to use the Qualified Offer Method. Part I requires employee information, including name, social security number, and address. Employer information is also required, including employer name, Employer Identification Number, and address. Let's look at a specific example for Jane Smith on the next slide.

In this example, Jane is a full time employee of Corporation ABC. Lines 1 through 6 provide Jane's personal information, and Lines 7 through 13 provide identifying information about Corporation ABC including that contact number that Jane can call if she has questions about what is reported on her Form 1095C. The Form 1095C furnished to Jane may show a truncated social security number and Employer Identification Number. And that means that only the last four digits of those numbers are shown on the returns. But those numbers may not be truncated on the forms that are filed with the IRS.

Part II "Employee Offer and Coverage" has three lines. On Line 14, the employer enters a code to report the details of the health coverage it did offer to Jane or if it did not offer coverage. Line 15 is completed only if the offer reported on Line 14 provided minimum value but was not a qualifying offer. In that case, on Line 15, the employer enters the employee's share of the lowest cost monthly premium for self-only coverage. On Line 16, the employer enters a code, if any apply, to indicate that it is eligible for a safe harbor or other relief from an assessable payment imposed under the employer-shared responsibility provisions if one of its employees received a premium tax credit. The codes for Lines 14 and 16 are described in detail in the instructions.

Let's look at how Part II of the form would be completed for Jane. If Jane received a qualifying offer from Corporation ABC for all 12 months of the year, ABC would enter Code "1A" in the "All 12 Months box" on Line 14. ABC will not complete Line 15 because the employer made a qualifying offer.

This slide shows Part III of Form 1095C, "Covered Individuals." This part is used only by a self-insured employer to meet its requirement to report minimum essential coverage in which an employee or other individual enrolled. This reporting requirement is in IRC Code Section 6055, not Code Section 6056. As a matter of convenience for self-insured ALEs, the Form 1095C is a combination form, and it allows those employers to satisfy the reporting obligations under both 6055 and 6056 by filing one information return rather than two. All covered individuals must be reported, including the spouse and/or dependents, and the employee's name and social security number must be reported even though it's been reported on Lines 1 and 2. Coverage is reported on a monthly basis, and if the individual is covered for all 12 months, the All 12 Months box can be

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checked. An individual is treated as covered if they are covered for one day in the calendar month.

Looking back at our example, we know that Jane and her spouse Brian received a qualified offer for all 12 months. If Jane's employer was self-insured, it would report enrollment information for Jane and her family in Part III. Jane's name and social security number are entered on Line 17, and Brian's name and social security number are entered on Line 18. Additionally, for each individual, the months covered are indicated in Column E. However, if the individual is covered for all 12 months, then the box is checked in Column D. As you can see, this was the case for both Jane and Brian. This is the last part of the 1095C.

This brings us to the end of the presentation on Internal Revenue Code Section 6056, Information Reporting for Employers. To recap, information reporting is required by an ALE member on the health care coverage offered to full time employees. The information reported is then used by the IRS to determine employees' eligibility for the premium tax credit and to administer the employer-shared responsibility provisions. There are alternative methods available to employers that meet certain criteria. Finally, there are two new information reporting forms, the Form 1094C Transmittal, and Form 1095C, which are both available with instructions on IRC.gov.

Now here we have a resource page with website addresses for the IRS and other Affordable Care Act key agencies where you will be able to find more information about the Affordable Care Act.

That closes our presentation. Thank you for attending.